Commentaries

PROTECTING PATIENTS AGAINST PSYCHIATRIC INTERVENTION

Thomas Szasz

Psychiatric patients are routinely treated against their will. Legally enforceable psychiatric protection orders would protect patients from coercive psychiatric interventions. The avowed desires of patients and doctors conflict more often in psychiatry than in any other branch of medicine. People known as "mental patients" are routinely subjected to "diagnostic" and "therapeutic" interventions against their will. Many such people see being committed (sectioned) and treated against their will as a personal violation-a "psychiatric abuse" and want to protect themselves from future involuntary psychiatric hospitalization and treatment. At present, former psychiatric patients, even when legally competent, have no means to defend themselves from such a contingency. Mental health laws-reflecting the point of view of psychiatrists and society-protect (or are said to protect) mentally ill patients from the dangers they pose, because of their illness, to themselves and others. Many mental patients view-and have always viewed-psychiatrists as posing a danger to them. Respect for the self-defined interests of such patients requires that the law protect them from further unwanted psychiatric interventions.

Courts recognize the validity of "psychiatric wills" (psychiatric advance directives) only when they prospectively authorize treatment; courts do not recognize them when the "psychiatric testator" rejects psychiatric "help." To remedy this defect, especially when patients are released into the community after a period of involuntary treatment for mental illness, I propose a new legal safeguard: the psychiatric protection order. Such an order, similar to the protection order used in domestic conflicts, would make it a criminal offence to impose involuntary psychiatric interventions on people protected by the order. In free societies only psychiatric patients are routinely treated against their will. (Public health laws explicitly serve the interests of the public, not the therapeutic needs of particular persons.)

Competent patients with uremia are not treated against their will and can use a "medical will" to protect themselves from undergoing dialysis. If psychiatry were like any other medical specialty competent patients with schizophrenia would not be treated against their will and could protect themselves with a psychiatric will from being treated. But they cannot: neither psychiatrists nor the courts recognize the validity of the psychiatric will. Mental health laws trump psychiatric advance directives. Not by coincidence the history of psychiatric interventions forcibly imposed on patients is long and depressing.

In a letter he wrote to me in 1988 Karl Menninger summarized the history of psychiatry with these sad words: "Added to the beatings and chaining and baths and massages came treatments that were even more ferocious: gouging out parts of the brain, producing convulsions with electric shocks, starving, surgical removal of teeth, tonsils, uteri, etc." To this list Menninger might have added the use of straitjackets, tranquillizing chairs, confining chairs, cold baths, emetics, purgatives,

Metrazol shock, inhalations of carbon dioxide, and neuroleptic drugs.

From the beginnings of the specialty, psychiatric patients have had no opportunity to free themselves from their protective-oppressive relationship with psychiatrists. In this brief paper I focus on a single issue: the desire of some psychiatric patients to free themselves, once and for all, from what they regard as an abusive relationship with the psychiatric profession. The Anglo-American legal system has always denied this option to these patients. This denial resembles the denial of slaves' opportunity, in a slave society, to leave their master; of the wife's opportunity, in traditional marriage, to leave her husband; and of citizens' opportunity, in the modern totalitarian state, to leave their country and its rulers. These people may enjoy all manner of benefits and privileges, but they cannot, without the permission of the repressive authority, leave the system for good.

The English and American legal systems maintain the fiction that the relationship between a family member responsible for committing a "loved one" and the incarcerated individual-as well as that between psychiatrists and involuntarily detained patients-is always one of "care" and "treatment." It can be otherwise only in "un-free, totalitarian" countries; such was the case in the Soviet Union and is now the case in China. That self-serving rationalization is at the core of the problem facing us. Anglo-American law assumes, as a matter of fact, that the relationship between a person and a legal agent of the state is adversarial. Justice Potter Stewart of the US Supreme Court famously remarked: "To force a lawyer on a defendant can only lead him to believe that the law contrives against him."

The law student is taught the duties and roles of both prosecuting attorney and defense attorney. Both jobs are legitimate and proper. In contrast Anglo-American psychiatry assumes, as a matter of law and psychiatry, that the relationship between a person and a psychiatric agent of the state is therapeutic. Forcing psychiatrists on mental patients is routine practice, and the patient who protests is likely to be given a diagnosis of paranoia. The medical student is taught only the duties and roles of the psychiatrist making diagnoses and providing treatment. The psychiatrist has no other legitimate duties or roles; only the job of the coercive psychiatrist is legitimate and proper. The psychiatrist who tries to help the coerced "patient" to reject the patient role is ostracized, or worse.

We are hypocrites if we ig nore who the parties are that support the enactment of mental health laws and deny patients the option of rejecting psychiatric services. Everywhere the supporters of mental health laws are psychiatrists and the relatives of so called mental patients. In the United States the relatives are now also in control of a powerful lobby, the National Alliance of the Mentally Ill, that legitimizes the abuse of family members (mainly adult children) as the care of "loved ones." Organizations of former psychiatric patients-who call themselves "victims of psychiatric abuse...are not among the parties clamoring for more psychiatric coercions or "services." People subjected to involuntary psychiatric hospitalization and treatment often feel victimized in much the same way as do wives (less often husbands) who are abused by their spouses. Until recent times women had no effective protection from their abusers, whom the law defined as their protectors. In many parts of the world women are still in that situation. Similarly, in the days of Dickens children were not protected from abuse by their parents.

Specific treatments may have changed since this 1818 drawing, but psychiatric patients are still forced to undergo unwanted interventions We in the West now recognize that the family is not just the primary locus of affection, care, and security for its members: it is all too often also the source of the most insidious danger to their physical and spiritual wellbeing. We acknowledge this unhappy fact and ac-

cordingly speak of "battered" children, spouses, parents, and grandparents. In the conflicts that often arise between adults living together as married couples or lovers, legal separation, divorce, and the so called protection order exemplify the legal system's acknowledgment of the problem and the need for legally sanctioned and enforceable mechanisms to remedy it.

A protection order mandates physical separation between the parties and makes it a criminal offence for the denominated threatener to impose their mere presence on the threatened person. I suggest that we similarly acknowledge the unhappy fact of "battered mental patients" and the need to protect them from their batterers. In the absence of a protection order the power relations between psychiatrist and involuntary patient will continue to generate "psychiatric abuse," rationalized as protection and treatment. Indeed, it is precisely because psychiatrists reject advance psychiatric directives authorizing abstinence from further treatment (a request that non-psychiatric doctors accept) that makes a legal mechanism such as the psychiatric protection order necessary.

Psychiatrists object to efforts to treat patients as responsible moral agents and cite the prevention of harm as a basic social mandate of psychiatry. Typically, they argue that people who would have committed suicide but for their involuntary detention would thereby have been deprived of the option of changing their minds once they had recovered from depression. A similar argument could be made against last wills or, indeed, any decision that profoundly affects one's future, such as marriage or having children. The standard psychiatric justification for "therapeutic" coercion either ignores the familiar conflict between liberty and security or, more often, equates (involuntary) psychiatric treatment with ("true") freedom.

Elsewhere I have examined and discussed this and related problems in great detail and proposed reconciling psychiatry with liberty. Human memory is notoriously short and selective. We have forgotten that until recently even in the United Kingdom and the United States people could not divorce. In some countries women still cannot divorce their husbands. For a long time the law, supported by religion, ranked the sanctity of marriage more highly than the need to protect the wife from her abusive husband and so prohibited divorce. To make matters worse, the law deprived her of her voice. The history of the "marriage" between mad people and their doctors shows a similar pattern. Since the beginning of mad doctoring in the 18th century, the law, supported by medicine (psychiatry), has ranked the "health" of mad people more highly than the need to protect them from the abusive psychiatrist and prohibited them from divorcing their psychiatrist. This is still the case. (The psychiatrist is free to leave the patient, typically by forcibly "marrying" the patient to another psychiatrist.) And again the law deprived, and still deprives, the victim of his or her voice. Only writers were, and are, willing to face the realities of psychiatry, illustrated for example by James Thurber's miniature masterpiece, The Unicorn in the Garden.

SUGGESTED READINGS

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